

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

JASON GARCIA,

Plaintiff,

v.

**SAIA, INC., d/b/a SAIA MOTOR
FREIGHT LINE, LLC,**

Defendant.

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CASE NO. _____

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. 1332 AND 1446

Defendant Saia Motor Freight Line, LLC¹ (“Saia”), pursuant to 28 U.S.C. §§ 1332 and 1446, hereby removes this matter from County Court at Law Number 5 in Cameron County, Texas. As set forth below, the Court has jurisdiction and Saia has satisfied the procedural requirements for removal.

I. THE COURT HAS JURISDICTION OVER THIS MATTER PURSUANT TO 28 U.S.C. 1332 (DIVERSITY JURISDICTION).

1. Plaintiff commenced the above-captioned action against Saia by filing a Petition in County Court at Law Number 5 of Cameron County, Texas, on or about March 26, 2020, as Case No. 2020-CCL-00371 (the “Petition”).

2. Saia was never properly served with a copy of the Petition.

3. Saia was served by the Court with an Order of Dismissal for Want of Prosecution on or about February 22, 2021.

4. On or about October 5, 2021, Saia was again served by the Court with a Notice of Hearing of Plaintiff’s Verified Motion to Reinstate.

¹ Plaintiff has improperly named Defendant as “Saia, Inc., d/b/a Saia Motor Freight Line, LLC.” The proper entity is Saia Motor Freight Line, LLC as it is not a d/b/a of Saia, Inc. The two entities are separate and distinct organizations.

5. Upon receiving the hearing notice, Saia retained local undersigned counsel for representation in this matter.

6. On October 11, 2021, local counsel was able to obtain the Petition for the first time.

7. Local counsel was able to obtain the entire docket file on October 14, 2021 and noticed a return of service for the Petition from CT Corporation on April 20, 2020. Saia investigated the return of service on file with CT Corporation, as it had never been served with the Petition.

8. On October 22, 2021, a customer service representative for CT Corporation confirmed that it had rejected service for Saia Inc. on April 21, 2020. See **Exhibit A**, a true and correct copy of CT Corporation's Service Rejection Letter.

9. Saia has not filed an answer to Plaintiff's Petition.

10. Pursuant to 29 U.S.C. § 1332, the "district courts shall have original jurisdiction of all civil actions where" two elements are satisfied: (A) "the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs;" and (B) the action "is between [] citizens of different States." Here, both of these elements are met.

A. The Amount in Controversy Exceeds \$75,000.

11. In his Petition, Plaintiff states that the compensable damages exceed \$100,000.00. A true and correct copy of the Petition, attached hereto as **Exhibit B**, ¶1.1.

12. Further, Plaintiff requests damages from lost earnings and special damages, past and future mental anguish, and seeks an award of attorney's fees. *See* Exhibit B, Sections VII-VIII.

13. Thus, there is more than \$75,000 in controversy in this matter. *See* 28 U.S.C. § 1332.

B. This Action is Between Citizens of Different States, and There is Complete Diversity.

14. As stated in Plaintiff's Petition, Plaintiff is an individual residing in Texas. *See* Exhibit B ¶2.1.

15. In contrast, Saia is not a citizen of Texas. Pursuant to 28 U.S.C. 1332(c)(1), a corporation's citizenship is determined by "every State...by which it has been incorporated and of the State...where it has its principal place of business." Saia Motor Freight Line, LLC is a Louisiana limited liability company. The sole member of Saia Motor Freight Line, LLC is Saia, Inc., a corporation incorporated under the laws of the State of Delaware with its principal place of business in the State of Georgia. Saia is not a citizen of Texas and thus, there is complete diversity.

II. SAIA HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL UNDER 28 U.S.C. 1446

16. This notice of removal is timely in that Saia has never officially been served, but for purposes of this removal, considers the time it first obtained the Petition, on October 11, 2021, as the start date for which it has to remove this action. Thus, the removal is timely in that Saia has done so within thirty (30) days from the date it obtained the Petition. *See* 28 U.S.C. §§ 1441(c), 1446(b); *see also* *Murphy Bros., Inc. v. Michetti Pipe Strining, Inc.*, 526 U.S. 344, 348 (1999) (removal period "is triggered by simultaneous service of the summons and complaints, or receipt of the complaint, 'through service or otherwise,' after and apart from service of the summons...").

17. This Court is the district "embracing the place where [the State Court] action is pending." 28 U.S.C. § 1441(a). The County Court at Law Number 5 in Cameron County, Texas is located in the Southern District of Texas, Brownsville Division. 28 U.S.C. § 124(b)(4).

18. In accordance with 28 U.S.C. § 1441, a copy of all process, pleadings, and orders served upon Saia in County Court at Law Number 5 in Cameron County, Texas is attached hereto as **Exhibit C**.

19. Saia will promptly file a copy of this Notice of Removal with the County Court at Law Number 5 in Cameron County, Texas and serve a copy on counsel for Plaintiff.

WHEREFORE, Defendant Saia requests that this action proceed in the United States District Court for the Southern District of Texas, Brownsville Division, as an action properly removed thereto.

Dated: November 8, 2021

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER LLP

By: /s/ Tricia W. Macaluso

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CERTIFICATE OF SERVICE

I certify that on November 8, 2021, a true and correct copy of the foregoing was served via email and U.S. mail on the following counsel of record:

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/s/ Tricia W. Macaluso

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